

Message Text

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ACTION L-03

INFO OCT-01 EA-09 ISO-00 H-02 DODE-00 /015 W

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R 230553Z FEB 76

FM AMEMBASSY BANGKOK

TO SECSTATE WASHDC 8895

UNCLAS BANGKOK 4000

E.O. 11652: N/A

TAGS: CDES, TH

SUBJ: DEATH OF AIR FORCE CHAPLAIN DAVID M. SOBEL

REF: STATE 033462

1. THE PARENTS OF CHAPLAIN SOBEL HAVE BEEN PURSUING THIS MATTER SINCE SHORTLY AFTER HIS DEATH. THE USAF HAS RESPONDED TO THEIR INQUIRIES, WHICH ARE SUBSTANTIALLY THE SAME AS IN REFTEL, SINCE THAT TIME. IN ITS REPLIES, THE USAF HAS POINTED OUT THAT ALTHOUGH IT IS CONCERNED WITH THE WELFARE OF THE SURVIVORS OF ONE OF ITS DECEASED MEMBERS, IT DOES NOT HAVE THE AUTHORITY TO BECOME INVOLVED IN A PRIVATE MATTER SUCH AS A POTENTIAL LAW SUIT. WE AGREE WITH THE USAF POSITION AND DO NOT BELIEVE IT PRUDENT TO PROVIDE ADVICE OR INFORMATION THAT COULD BE INTERPRETED AS LEGAL ADVICE ON A PRIVATE, PERSONAL MATTER. SUCH ADVICE SHOULD BE OBTAINED THROUGH PRIVATE LEGAL SOURCES, AS THE SOBELS APPARENTLY INTEND TO DO.

2. THE FOLLOWING ANSWERS TO YOUR QUESTIONS HAVE BEEN OBTAINED FOR WHATEVER USE YOU DEEM APPROPRIATE:

A. UNDER THAI LAW AN EMPLOYER IS RESPONSIBLE FOR THE TORTS OF ITS EMPLOYEES COMMITTED WITHIN THE SCOPE OF EMPLOYMENT. AS A MATTER OF PRACTICE, IT IS NECESSARY FOR THE EMPLOYEE TO PROVIDE THE EVIDENCE THAT HE WAS ACTING WITHIN THE SCOPE. IN THE ABSENCE OF THE DRIVER, THE IMPUTATION OF LIABILITY IS ALMOST IMPOSSIBLE. FURTHERMORE, THE LIMITED LIABILITY COMPANY HAS DENIED THAT THE DRIVER WAS AN EMPLOYEE. INSTEAD, HIS POSITION IS ALLEGED

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TO HAVE BEEN THAT OF AN INDEPENDENT CONTRACTOR FOR WHOM

THE COMPANY HAD NO LIABILITY. ADDITIONALLY, IT SHOULD BE NOTED THAT THE POLICE WERE OF THE OPINION THAT THE NEGLIGENCE OF THE TRUCK DRIVER WAS LITTLE, IF ANY. THE POLICE REPORT STATES: "FOR THE 2ND ACCUSED (THE TRUCK DRIVER), EVIDENCE OF THE CASE FAILS TO REVEAL ANY NEGLIGENCE ON HIS PART DURING THE TIME OF THE INCIDENT."

B. A MANUFACTURER'S LIABILITY FOR THE DAMAGES CAUSED BY A DEFECTIVE PRODUCT IS RECOGNIZED UNDER THAI LAW. PROOF OF PROXIMATE CAUSATION IS DIFFICULT BUT NOT IMPOSSIBLE. THE CURRENT LOCATION OF THE VEHICLE IN WHICH CHAPLAIN SOBEL DIED IS UNKNOWN. SIMILARLY, IT IS NOT KNOWN WHETHER THE VEHICLE WAS REPAIRED SUBSEQUENT TO THE COLLISION NOR, FOR THAT MATTER, THE IDENTIFY OF THE REPAIR FACILITY, IF ANY.

C. THAILAND DOES NOT HAVE COMPULSORY LIABILITY INSURANCE. WE ARE UNAWARE OF WHETHER THE ISRAELI DIPLOMAT CARRIED SUCH INSURANCE VOLUNTARILY.

D. A CIVIL ACTION FOR WRONGFUL DEATH HAS TO BE INSTITUTED WITHIN ONE YEAR FROM THE DAY THE ACTION ACCRUES.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 23 FEB 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976BANGKO04000
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760072-0524
From: BANGKOK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760225/aaaaavhe.tel
Line Count: 85
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 76 STATE 33462
Review Action: RELEASED, APPROVED
Review Authority: castelsl
Review Comment: n/a
Review Content Flags:
Review Date: 09 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09 JUL 2004 by schwenja>; APPROVED <24 AUG 2004 by castelsl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DEATH OF AIR FORCE CHAPLAIN DAVID M. SOBEL
TAGS: CDES, TH, (SOBEL, DAVID M)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006